

FILED  
U.S. DISTRICT COURT  
DISTRICT OF NEW JERSEY  
DISTRICT OF NEW JERSEY

2013 MAY 20 A 11: 40

Civil Action No. RDB-13-1132

\*\*\*\*\*

\*\*\*

# MEMORANDUM OPINION

Habeas corpus relief is available under 28 U.S.C. § 2241 when a prisoner is “in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3); *Rose v. Hodges*, 423 U.S. 19, 21 (1975). When a prisoner seeks judicial review of the execution or calculation of his sentence, rather than the legality of the sentence itself, the appropriate remedy is a § 2241 habeas petition filed against the warden of the prison facility in the district where the prisoner is confined. *See Braden v. 30<sup>th</sup> Judicial Circuit Court of Kentucky*, 410 U.S. 484, 495 (1973); *Rumsfeld v. Padilla*, 542 U.S. 426, 447, 434 n. 7 (2004); *Levine v. Apker*, 455 F.3d 71, 77–78 (2d Cir. 2006) (habeas petition filed under 28 U.S.C. § 2241 is the proper vehicle

to challenge Bureau of Prisons policy regarding petitioner's placement at federal prison instead of a community correctional facility).

Robinson is presently in the custody of the Warden, of the United States Penitentiary Victorville in Adelanto, California, a facility located in the Central District of California.<sup>1</sup> Accordingly, this case will be dismissed without prejudice for lack of jurisdiction so that Robinson may file for relief in the appropriate judicial district. A separate Order follows.

5/20/2013  
Date

/s/  
RICHARD D. BENNETT  
UNITED STATES DISTRICT JUDGE

---

<sup>1</sup> The address for the United States District Court for the Central District of California is: U.S. Courthouse, is 312 North Spring Street, Los Angeles, CA 90012-4701. Petitioner is reminded that prisoners are generally required to exhaust available administrative remedies before filing a habeas corpus petition pursuant to 28 U.S.C. § 2241. This Court expresses no opinion as to the merits of his claims.